



**MINUTES OF SPECIAL JOINT MEETING OF  
THE CITY COUNCIL/REDEVELOPMENT  
AGENCY  
OF THE CITY OF HAYWARD  
City Council Chambers  
777 B Street, Hayward, CA 94541  
Tuesday, January 21, 2003, 8:00 p.m.**

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**MEETING**

The Special Joint Meeting of the City Council/Redevelopment Agency was called to order by Mayor/Chair Cooper at 8:00 p.m., followed by the Pledge of Allegiance led by Mayor/Chair Cooper.

**ROLL CALL**

Present: COUNCIL/RA MEMBERS Jimenez, Hilson,  
Rodriguez, Ward, Dowling, Henson  
MAYOR/CHAIR Cooper  
Absent: None

**PUBLIC COMMENTS**

Jason Moreno discussed the Neighborhood Alliance meeting regarding the Hayward Unified School District and budget cuts for the District. He urged people to attend the meeting of the Board on Wednesday, January 22.

Barbara Swarr talked about two previous agenda items, both the Redevelopment Audit and the loft conversion on "B" Street. She expressed amazement that the item on the conversion took so much longer than approving the audit. She asked a number of questions about the audit as well.

City Manager Armas said he would take her questions under advisement and respond to her in writing.

**CONSENT**

Item 2 was removed for further discussion.

1. Approval of Minutes of the Special Joint City Council/Redevelopment Agency Meeting of January 14, 2003

It was moved by Council/RA Member Hilson, seconded by Council/RA Member Ward, and unanimously carried to approve the minutes of the Special Joint City Council/Redevelopment Agency Meeting of January 14, 2003.

2. Funding for Physical Improvements Resulting from the Harder-Tennyson Community Meeting

Staff report submitted by Director of Public Works Butler, dated

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January 21, 2003, was filed.

Council Member Dowling asked for further information about the PG&E ownership of the poles and lights. He then asked about other neighborhoods wanting similar collectors.

City Manager Armas explained that PG&E still owns the poles; the City bought the lights. He was not aware of other neighborhoods that would want similar collectors. This is a unique situation and other residential neighborhoods have the opportunity for large-item pick-ups through Waste Management.

Council Member Henson asked about the other items discussed at the community forum.

City Manager Armas said another item discussed, regarding after-school programs would probably be back before Council in February.

It was moved by Council Member Dowling, seconded by Council Member Henson, and unanimously carried to adopt the following:

Resolution 03-018, "Resolution Amending Resolution 02-084, as Amended, the Budget Resolution for Fiscal Year 2002-03, Relating to Transfer of Funds from the General Fund Undesignated Fund Balance, Fund 100, for the Improvements to Harder-Tennyson Area"

Resolution 03-019, "Resolution Amending Resolution 02-087, as Amended, the Budget Resolution for Capital Improvements for Fiscal Year 2002-03, Relating to Transfer of Funds from the General Fund Undesignated Fund Balance, Fund 100 to the Capital Improvement Fund, for the Speed Hump Installation Project, Project No. 5734"

3. An Ordinance Repealing Existing Rent Stabilization Ordinance and Enacting a New Residential Rent Stabilization Ordinance

Staff report submitted by City Clerk Reyes, dated January 21, 2003, was filed.

It was moved by Council Member Hilson, seconded by Council Member Ward, and unanimously carried to adopt the following:

Ordinance 03-01, "Ordinance Repealing Existing Residential Rent Stabilization Ordinance and Enacting a New Ordinance for Residential Rent Stabilization"



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By Council consensus, Legislative Business Item #5 was taken out of order and heard at this time.

**HEARING**

4. Appeal of Planning Commission Approval of Administrative Use Permit Application No. PL-2002-0262 - Mark Thomas - Heart of the Bay Christian Center (Applicant/Owner)/Cecelia Wilson and Patricia Liatto (Appellants) - Property Located at 24800 Hesperian Boulevard

Staff report submitted by Planning Manager Anderly, dated January 21, 2003, was filed.

Planning Manager Anderly presented the staff report. She noted that the Southgate Neighborhood Task Force proposed that there be retail at this location. She commented that rarely does a church take up this amount of land area. This is over 5 acres. She said the City had inquiries regarding the properties. She maintained that the economic development of the City of Hayward would lose considerable funding with this proposal since there would be no tax base from the Heart of the Bay Christian Center. Adjacent retailers could suffer from lack of support. She then discussed the other possible uses of the property.

Council Member Dowling referred to a letter from the Southgate Homeowners asking for several conditions of approval to make the use more palatable.

Planning Manager Anderly responded that any ancillary use is part of the permit of the church. And that any activity not directly related to the use of the church function could be conditioned.

Council Member Henson asked about any remaining sites of this size available in Hayward. He also asked about allowed uses in the District.

Planning Manager Anderly said staff had taken no survey. She noted that there are very few parcels of this size left in the City. Bigger parcels are difficult to come by. She added that the use of this parcel as a church would be a judgment call.

Council Member Henson then discussed the Southgate Task Force's recommendation, accepted by the City Council, regarding commercial space being lost because of other uses. He asked when the Task Force had been appointed. He then noted that there were several vacancies along the corridor and asked how many there were.

Planning Manager Anderly thought it was about four years ago that the Task Force was in effect. She said the City has a vested interest in this area and did not have the number of vacancies at hand.

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Council Member Henson then asked for further clarification of Condition of Approval 21, driveway off of Turner Court. He asked whether this is the one in the back of the building.

Planning Manager Anderly stated that the plans show there are two driveways close together. She noted that there would still be access to the back from Turner Court.

Council Member Ward commented that staff had indicated possible alternative uses along this corridor, and asked to hear more about these. He also asked for staff's opinion on the highest and best use of the property and whether this parcel was part of the General Plan.

Planning Manager Anderly explained that when the property was first on the market, interest was shown in possibly converting it to mixed use with housing, until the sale occurred. She noted also that since the property abuts commercial buildings and a school, as well as being on the edge of Industrial District, there is a solid, viable commercial potential at this location. It is also near major transportation so mixed use might work well.

Council Member Hilson asked for further information about the conditions of approval regarding both the landscaping and the lighting. He commented that the use permit should include conditions that the landscaping be maintained appropriately. Any substantial trees will be replaced with same. As to the lighting, he noted that it should be designed not to affect the neighborhood and that there be no loudspeakers, nor parishioner parking in the neighborhood.

City Attorney O'Toole noted that it would be difficult to make some of these conditions, if there is no problem shown. On the other hand, the Council could react if there is a problem by then reviewing the use permit.

Council Member Jimenez quoted from the staff report that the liquor establishments were complaining about the negative affect it would have on them if there were a church next door. He felt the opposite.

Council Member Rodriquez asked that staff consider developing a study of Hesperian Boulevard for potential and commercial aspects.

Planning Manager Anderly confirmed that no studies have been done.

Council Member Rodriquez asked whether the sale of the property occurred before approval was granted.

Planning Manager Anderly noted that usually the sale does not occur until the decision is made.

Council Member Rodriquez commented on the application of religious land use and how it might be pertinent to this application.



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City Attorney O'Toole explained that the law, RLUIPA, Religious Land Use and Institutionalized Persons Act of 2000, was created to prevent discrimination. He emphasized that it does not prohibit the City denying the permit, if there is a compelling interest to do so.

Mayor Cooper opened the public hearing at 8:54 p.m.

Mark Thomas, Union City, senior pastor for the Heart of the Bay Christian Center (Church) said this was their 25<sup>th</sup> year and the Church had grown to nearly 1,000 parishioners. He described the 39 teams in the church and asked that those present supporting the application to stand. A majority of those attending stood. He then explained their present lease of Marina High School by the San Lorenzo Unified School District. He commented that, although they have invested at least a million dollars into the site, there is stringent zoning allowing a maximum of 8 or 9 hundred people. He noted that the District and Superintendent could terminate the lease at any time and they would be compelled to find a home for their organization within two years. They are a regional church, which means they hope to get larger. Their vision is to be open to all. He explained that they were looking for a permanent home. He noted that rejection of the use permit would be a burden. Their present location has a lack of visibility, lack of space, and has harmed their religious exercise. Their vision is not being fulfilled. He commented on the lack of space in the present facility; they currently have 6 people sharing an office. This shared usage is inadequate to the needs of the Church. Street parking is necessary because of the modular buildings brought into the parking lot. Space and lack of a safe environment cause a hindrance to their religious exercise as well as a substantial burden to their religious exercise. In response to various questions from council members, Pastor Thomas discussed their acquisition of the property by September 5 or they would have lost it. He said they would not have closed on the property except for the RLUIPA Law. He added that their primary purpose to acquire was the need for space since they would envision growing to be a congregation of from 2,000-2,500 people. He explained that this location offers the Church that high visibility and easy access for members. Future growth might be handled like the Catholics and have more services throughout the week.

In response to Council Member Rodriguez questions about the property next to the Elks in that vicinity, Planning Manager Anderly explained that the International Educational Facility of America, a non-profit institute, purchased the property and the building will serve as their administrative offices.

Ingrid King, Oakland, a 7-year member of the Church as well as the Church Accounting Administrator, discussed the survey they had taken among parishioners. She said that 70% live outside the City of Hayward, but spend money in the City. In a survey of 425 members, 289 live outside the City, but spend approximately \$70,000 month in the City of Hayward. She discussed the various seminars for out of City and out of State residents, which will also bring more revenue into the City. Based on current location, there will be more revenue and convenience as

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well as visibility and safety. She noted that the youth programs help keep kids off the streets and that the Church is a place for hope and courage.

Council Member Ward commented that at their present location, the City is already deriving sales tax so it would basically be a net loss from one location to a net gain in another.

Council Member Jimenez asked whether members had relocated to Hayward.

Jayne Caruso, a teacher living in Castro Valley, said she is actively involved in Hayward. Although not a member of the Church, she said she has worked with many of the members. She described an inspirational assembly at a summer school and noted that several assemblies have been held. She said they would be pleased to see the permit granted. She emphasized that the need is greater than ever. The Church can provide additional opportunities for students in the area. With her were several students, who she said, represent the diverse community, of both the Church and the City.

Council Member Rodriguez asked her for clarification regarding her status as a principal at one of the local schools.

Ms. Caruso explained that she had been the principal at Ochoa Middle School. Currently, she was at Bret Harte with the Retention Prevention Program.

Council Member Henson asked whether she was suggesting that schools cannot do everything, and government cannot, that these programs can.

Ms. Caruso explained that there is a need to work together with the community. Heart of the Bay provides places to go, as well as offers various services and activities for youth.

Council Member Henson asked Ms. Caruso whether she referred students to these programs.

Ms. Caruso responded that she cannot refer them but works with local community services. She added that students talk, and as a result, they know where they can go.

Council Member Dowling asked about the "180 Club" sponsored by Heart of the Bay Christian Center. In response, the students said it changed their lives. The Church helped to turn their lives around 180 degrees.

David Austin Smith, architect for this project, stated that it is very costly to construct churches. As a result, building conversion is becoming more popular. He has been very involved in the conversion of buildings into churches. Since there is no zoning for churches, they are allowed in most places. He noted that most churches cannot afford to build or buy except in residential neighborhoods. The City of San Jose has an ordinance for churches that must be located only on main thoroughfares. He compared Church occupancy as being very much the same as a theater's and there is sufficient parking. He noted that it even looks like a church and the site is very well



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suited for this purpose. At this location there will be no church parking on the streets and within the neighborhoods.

Council Member Ward asked about earlier comments regarding the growth rate with the expectation of 2,500 members, and the parking to accommodate that size membership.

Planning Manager Anderly said that currently only 100 spaces are needed. She said the number available on the site might accommodate future growth.

Council Member Ward then asked about the expansion of the building itself.

Mr. Smith said there is 1,800 square feet in the back. They could remove the wall in the rear of the building.

Douglas Wiele, shopping center developers, said he was asked to assess this building for retail. He said it is well suited for retail, except for the access issue. There is no corner access and there could be no left turn. As a result, the building would have to be replaced. He determined that perhaps 10 percent of the property is usable.

Brenda Blanton, homeowner living in Hayward, said she moved to Hayward in 1983 because of the Heart of the Bay Christian Center. She explained that this is a Church of diversity and has been of great benefit to her. She said she has developed quality relationships through the Church's Singles Ministry and noted that this facility will benefit the area as well.

Dede Martinez said she is a Church member and a single parent, living on Gading Road and asked for Council approval of the permit.

Michael Vargas, San Ramon, referred to an article in the local press describing budget cuts. He read that in the industrial area of Hayward, 500 acres are available for development. He asked why this 5-acre tract should be a problem out of the 2,500 acres available within the City. Even if only 2,000 acres are useful, the City of Hayward should focus on attracting more business to the other acres.

Brian Mills, Newark, a 13-year commuting member, said that vacant buildings attract vagrants and loitering. This will be a benefit to the community. He explained that already they have disposed of much debris on the site. He felt that this is a good fit. He commented that it would be a great idea to bring Barnes and Noble to Hayward but not to this site.

Bill Lynch, San Ramon, City of Hayward employee at the Fire Department, said the Council keeps the community first. He said the Heart of the Bay Christian Center reaches the community in a closer way.

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Pamela Nickolopoulos said she and her husband have been members of Church for a while. Drugs and alcohol had been her lifestyle. She said she was rescued by the Church and strengthened through the Church. She noted the hope and vision the Church has for the City and asked members to vote for the spiritual land use at this location.

George Nickolopoulos, owner of Val's, said he is passionate about this Church. He said it is vital for more than a few places to help in a time of need. He also stated that the current location is not adequate.

Russell Crooks said the project would not contribute to the commercial area. At this point, Hayward ranks second in commercial business in this area, and earns 50 percent more in sales tax dollars. With the present vacancy there is no revenue being derived from the UA Theatre. A vacant building requires services. This applicant will upgrade the property, so there will be a lessening of demand of local services in off-peak hours. He said it would be a net benefit to the City.

Connie Bennett, Hayward, moved to Hayward when her father was at Palma Ceia Baptist Church. She said she thought she would have to go to other cities to find the diversity in religion she was seeking. However, she visited the Heart of the Bay Christian Center early last year and found what she was looking for. She emphasized the need for a larger location.

Steve Nirschl said he has been the Youth minister at Heart of the Bay for 8 years. He described some of the impacts the Church has had on the youth in Hayward. He maintained that they have reached thousands in the City of Hayward. The Church has built a video arcade, snack bar, and will do everything to give these young people a safe haven to come to where they can learn about relationships. He said their job is mentoring and reaching the youth.

Sherri Woods, Milpitas, a 9-year-member, said the ministry has guided her family's life. She discussed the work of the children's ministry.

Marcella Parras, Hayward resident and a 10-year member, described Second-Wind, an organization for active senior adults in the Church. She said they have a vision to reach out to the hurting in hospitals and convalescent homes. She emphasized that they are not just members but a family who care. Everyone is welcome. She noted that public transportation is important, particularly for the senior members. The new location will be convenient and safe.

Paul Mader, a real estate broker, commented on what he thought could be done with the property. He noted the zoning of the property and discussed the highest and best use. He commented that the property is vacant and the Church has already made various improvements on the site. He noted that it is an ideal location for a church.

Nancy DeMello said she didn't need to speak.

Brenda Thomas, co-pastor at the Heart of the Bay Christian Center, thanked the Council for their





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time and patience. She said she respected their position and thought they were doing a wonderful job. It is apparent that the Council's major concern is the improvement of the quality of life for Hayward residents. She emphasized that this is a church for all people, a working body for every age group. She said it would not do to place a monetary value on hope for the future. This will add value to the community. The Church has been here for 20 years, and has been looking for a permanent home in the area.

Ed Bogue, member of the Board of the Southgate Home Owners Association, said the letter from Southgate Homes Association had been revised. He read a portion of the letter that was submitted. He said the Association does not support the use of a church as a commercial use. He reiterated their request to require that prior to occupancy, the landscaping improvements be met, replacement of trees be done, and that no soup kitchen be allowed. He continued with the requirement that there be no residencies on site, no other fencing, and that outdoor activities require permits. Were the Council to approve this application, he asked that they include these suggestions as additional Conditions of Approval.

Al Reynolds, Erskine Lane, spoke against this project because it would not contribute to the City's tax base. He added that he would still like proof that members will go to these various places of business.

John Leyvas, Jr., had an emergency and needed to leave before he could speak.

Audrey Wadsworth encouraged Council to approve this space on Hesperian. As a disabled member, she said the Church has always welcomed them. It would be safer and more convenient to the disabled to reach this property.

John Pinto owns the property next door, Boca Bargoons. He said the Church has already improved the area. He noted that the theatre did not always take responsibility for the property. He said much of the graffiti would come at night. At this point the Church is right there to clean it up. He emphasized that this would help the neighborhood.

Steve Cassidy, attorney for the Church, explained more about RLUIPA. A City cannot implement an imposition of a burden. The City must demonstrate that a substantial burden has not been imposed. Along with this, there is an equal treatment provision, not less than equal terms. He said the Church is willing to accept the Southgate Homeowners Association's proposed conditions.

The public hearing was closed at 10:38 p.m. At this point, the Council took a 10-minute recess.

Mayor Cooper proposed a motion to accept the Planning Commission findings with additions of no soup kitchen and no outdoor activities without a permit. Council Member Jimenez seconded

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the motion.

Council Member Hilson said the use of the property must be a church use only, not for any other kind of use. He asked for the addition of a friendly amendment that any funeral processions or weddings be fully staged on the property itself, so there would be no impact on Hesperian Boulevard. He noted that many of the earlier speakers discussed sales taxes to the City of Hayward. He commented that the Council has worked hard to make this a business friendly City through careful zoning and land-use planning. He said from his personal viewpoint there is no question that the Church does good things. That is a basic assumption of what a church does. However, this is a zoning issue. He maintained that having a church at this location is not the highest and best use for the property.

Council Member Dowling said he grew up as a Catholic and has a high value for religious institutions. He stated that the City of Hayward is built out and there is not much property left. He noted the approval for Life Chiropractic College in the industrial area, adding that he did not know what the value of the retail would be on this site. The Council is faced with having to maintain a balancing act to make sure there is revenue coming in. He added that the Federal Law, RLUIPA, makes a big difference as a result, he would vote for the motion.

Council Member Henson thanked staff and everyone for their hard work. He also thanked all those who came out to this meeting. He said it is important for the Council to look at every parcel, particularly with an economic situation that is so uncertain. He agreed that it is a balancing act. He said he would be supporting the motion since it is the appropriate thing to do, adding that a 20-year search is a long time. This is a land-use issue. Although the Church has wonderful programs, he said he found himself torn between looking at staff's recommendation and potential businesses that could be brought in. He indicated that for him, it came down to RLUIPA. He indicated that he believed the Heart of the Bay Christian Center would bring vitality to the area. Traffic might be mitigated through staff proposals. He said he appreciated the concerns of the Southgate Home Owners Association and would also hold the congregation to their pledge of spending money in Hayward. As to the architecture, he suggested adding a softening of the corners for a more symbolic tone to a place of worship. Lastly, he reported that he testified in Washington against potential legislation that tends to usurp local authority, in particular RLUIPA. This legislation seems to be a burden on cities.

Council Member Rodriquez said she lives in Southgate. Already the neighborhood has a lot of churches, none with good parking facilities. She explained that there are a lot of reasons to feel strongly about this. It is a very nice neighborhood that's been there for a very long time. She added that it is one of the oldest neighborhoods in the City. Mr. Bogue represented the neighborhood well. She appreciated that the provisions of the Association were part of the motion. She said she also would vote to support because it is a land use issue. She emphasized that taxes are necessary for everything in the City. She noted that the Church had covered their bases and made good presentations.

Council Member Jimenez reminded parishioners to "Buy Hayward". He added that he was very



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proud of everyone who presented and participated in the process.

Council Member Ward noted that there were a number of issues of concern, however, the Church position was very well organized and responded to many of these concerns. He commented that in general Sundays are segregated. This Church has proven to be a diverse community.

It was moved by Mayor Cooper, seconded by Council Member Jimenez, and unanimously carried to adopt the following:

Resolution 03-021, "Resolution Approving the Negative Declaration and Approving the Use Permit Application No. PL 2002-0262, Concerning a Request to Convert the Former United Artists Theater Into a Religious Facility"

## **LEGISLATIVE BUSINESS**

### **5. Resolution in Opposition to Governor's Proposed Shift of Vehicle License Fee Revenues**

Staff report submitted by City Manager Armas, dated January 21, 2003, was filed.

City Manager Armas explained the need to remind the Governor and the Legislature that the Vehicle License Fee Revenues were committed to local governments. This resolution would tell Governor Davis that the budget proposals would be devastating to local governments.

Council Member Hilson stated that the State created the problem and this breaks a promise made to local governments. The Legislation calls for the fee to go back to its usual rate because times are bad.

Council Member Henson stated that it was his understanding that the Speaker would not support the Governor on this issue. He then asked about the time frame for the Legislation and action on this issue.

City Manager Armas said staff is expecting something tomorrow and informed the Council that cuts start in February of this year.

Council Member Jimenez suggested that the former Governor stole money from the cities and that is the real story.

Mayor Cooper opened and closed the public hearing at 8:20 p.m.

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It was moved by Council Member Hilson, seconded by Council Member Henson, and unanimously carried to adopt the following:

Resolution 03-020, "A Resolution Urging the California Legislature to Reject the Governor's Proposed Shift of Local VLF Revenues and to Honor the 1998 Commitment to Restore the VLF"

#### **COUNCIL REPORTS**

There were no Council reports.

#### **ADJOURNMENT**

Mayor Cooper adjourned the meeting at 11:11 p.m.

APPROVED:

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Roberta Cooper, Mayor, City of Hayward  
Chair, Redevelopment Agency

ATTEST:

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Angelina Reyes, City Clerk, City of Hayward  
Secretary, Redevelopment Agency